

# INTERNATIONAL SEARCH REPORT

International Application No

PCT/CH2004/000466

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61F2/46

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 97/29698 A (FRANCOIS JEAN MARIE ; GODEFROY JEAN (FR); MOLE DANIEL (FR); BRESLER FR) 21 August 1997 (1997-08-21) page 6, line 26 - page 8, line 33 -----	1-4, 11, 12
X	GB 2 224 937 A (FARMER MALCOLM HUGH; DOYLE JAMES; HOOPER ANTHONY CONAL; MAHONY PATRICK) 23 May 1990 (1990-05-23) page 10, paragraph 2 - page 11, paragraph 1 page 13, paragraph 4 - page 15, paragraph 3 -----	1, 5-7, 10, 11, 14, 16, 22, 24-28
X	US 6 302 890 B1 (LEONE JR WILLIAM) 16 October 2001 (2001-10-16) cited in the application column 5, line 31 - column 7, line 27 ----- -/-	1, 8

Further documents are listed in the continuation of box C.

Patent family members are listed in annex.

### \* Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

- "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- "&" document member of the same patent family

Date of the actual completion of the international search

30 November 2004

Date of mailing of the international search report

13/12/2004

Name and mailing address of the ISA

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## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 395 005 B1 (LOVELL TIMOTHY PATRICK) 28 May 2002 (2002-05-28)  column 4, line 6 - column 6, line 65 column 9, line 8 - line 45 -----	1,7,9, 13,15, 17-21, 23,27,28
X	DE 200 06 515 U (GOBIT GMBH) 10 August 2000 (2000-08-10) the whole document -----	1

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Patent document cited in search report		Publication date		Patent family member(s)	Publication date
WO 9729698	A	21-08-1997		FR 2744629 A1 AU 1800197 A CA 2245980 A1 DE 69725426 D1 EP 0880340 A1 WO 9729698 A1 US 6102915 A	14-08-1997 02-09-1997 21-08-1997 13-11-2003 02-12-1998 21-08-1997 15-08-2000
GB 2224937	A	23-05-1990		IE 880739 A1 US 5141512 A	20-02-2002 25-08-1992
US 6302890	B1	16-10-2001	US	6623488 B1	23-09-2003
US 6395005	B1	28-05-2002		NONE	
DE 20006515	U	10-08-2000	DE	20006515 U1	10-08-2000

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 27 OCT 2005

WIPO

PCT

Applicant's or agent's file reference 278-1.B.WO	<b>FOR FURTHER ACTION</b>	
See Form PCT/IPEA/416		
International application No. PCT/CH2004/000466	International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 24.07.2003
International Patent Classification (IPC) or national classification and IPC A61F2/46		
Applicant ECHEVERRI, SANTIAGO		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> <i>sent to the applicant and to the International Bureau</i> a total of 2 sheets, as follows:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>		
Date of submission of the demand 20.05.2005	Date of completion of this report 26.10.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Buchmann, G Telephone No. +49 89 2399-2288	



# **INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.  
PCT/CH2004/000466

### **Box No. I Basis of the report**

- With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
    - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
      - international search (under Rules 12.3 and 23.1(b))
      - publication of the international application (under Rule 12.4)
      - international preliminary examination (under Rules 55.2 and/or 55.3)
  - With regard to the **elements\*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

**Description, Pages**

1-13 as originally filed

## **Claims, Numbers**

**1-12** received on 20.05.2005 with letter of 18.05.2005

## **Drawings, Sheets**

1/16-16/16 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:

  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes:	Claims	1-11
	No:	Claims	12
Inventive step (IS)	Yes:	Claims	1-11
	No:	Claims	12
Industrial applicability (IA)	Yes:	Claims	1-12
	No:	Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.  
**PCT/CH2004/000466**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following document/s/:

D3: US-B1-6 395 005 (LOVELL TIMOTHY PATRICK) 28 May 2002 (2002-05-28)

**Independent Claim 1**

The document D3 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (see column 5, line 7 - column 6, line 65, column 9, lines 8-45):

A guide (70, 180) for a surgical instrument, comprising a shaft (120, 222), instrument fixing means (250) for fixing the guide to an instrument, and a frame (120, 254) situated between said shaft and said instrument fixing means. At the distal end of the shaft (120, 222), pointing means (122, 234) are provided.

The subject-matter of claim 1 differs from this known guide in that it comprises orientation means, distinct from the shaft, which are adapted to define a reference plane.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as to provide a guide which improves accuracy of implantation.

The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

None of the documents cited in the international search report discloses or fairly suggests a guide according to claim 1, comprising an orientation means defining a reference plane.

Claims 2-11 are dependent on claim 1 and as such also meets the requirements of the PCT with respect to novelty and inventive step.

**Independent Claim 12**

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.  
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The subject-matter of claim 12 is not new in the sense of Article 33(2) PCT:

Claim 12 defines a calibrating apparatus which is suitable for calibrating a guide and an instrument as defined in claim 1. According to the Guidelines C-III, 4.8, this does not include any features of the guide or the instrument as defined in claim 1. Hence, claim 12 defines only a calibrating apparatus, comprising angle reproducing means. Such an apparatus, however, is clearly not new, because any angle gauge can be regarded as an angle reproducing means and also as an calibrating apparatus.

A combination of a guide according to claim 1 and a calibrating apparatus would fulfill the requirements of the PCT.

**Re Item VII**

**Certain defects in the international application**

The document D3 is not identified in the description and the relevant background art disclosed therein is not discussed (Rule 5.1(a)(ii) PCT).

The passage on page 13, lines 11-18 refers in an unclear way to the spirit of invention (PCT Guidelines, III-4.3(a)).

**Re Item VIII**

**Certain observations on the international application**

Claims 11 and 12 lack clarity (Art. 6, PCT) for the following reasons:

Claims 11 and 12 refer to the measurement of an angle between ASIS and HJC. However, ASIS and HJC appear to be two points. It is not clear, how and angle could be measured between two points.

**Claims**

1. Guide (2) for surgical instrument (4,37) such as an acetabular prosthetic cup instrument, said guide (2) comprising a shaft (8), instrument fixing means (11) for fixing said guide (2) to a surgical instrument (4,37) and a frame (35) situated between said shaft (8) and said instrument fixing means (11), characterized by the fact that it furthermore comprises pointing means (12,38) situated at the shaft (8) distal end and orientation means (6), distinct from the shaft (8), which are adapted to define a reference plane.  
5
2. Guide (2) according to claim 1 wherein said pointing means comprise a pair of parallel shafts (12) which are oriented at an angle with respect to the shaft (8) direction.  
15
3. Guide (2) according to claim 1 wherein said pointing means comprise a laser beam (38).
4. Guide according to anyone of claims 1 to 3 wherein said orientation means (6) are  
20 adjustable.
5. Guide according to claim 4 wherein said orientation means (6) comprise two bubble levels (9,10).
6. Guide according to claim 5 wherein the first bubble level (9) is adapted for orientating an instrument (4,37) fixed to said guide (2) with respect to a right hip and wherein the second bubble level (10) is adapted for orientating said instrument (4,37) with respect to a left hip.  
25
7. Guide according to anyone of claims 1 to 6 wherein said instrument fixing means (11) are adapted to allow a quick fixation or release of the guide (2) to/from the instrument (4,37).  
30
8. Combination of a guide (2) according to anyone of the previous claims together with an acetabular prosthetic cup instrument (4,37) comprising a shaft and with a  
35

handle at its proximal end and with a distal end adapted for receiving either a reamer or a cup positioner.

9. Combination of a guide (2) according to anyone of the previous claims 1 to 7  
5 together with a pelvic positioner (17), said pelvic positioner (17) comprising two arms (20) with respective feelers (22) and orientation means (19).

10. Combination of a guide (2) according to anyone of the previous claims 1 to 7  
together with a pelvic orientation witness (3), said pelvic orientation witness  
comprising pelvic fixing means (15) for fixing said pelvic orientation witness (3) to  
the pelvis (13) and orientation means (16).

11. Combination of a guide (2) according to anyone of the previous claims 1 to 7  
together with an angle measuring device for measuring the angle between ASIS  
15 (Anterior Superior Iliac Spine) and HJC (Hip Joint Center).

12. Calibrating apparatus (23) for calibrating a guide (2) and an instrument (4) as  
defined in anyone of previous claims 1 to 8, said calibrating apparatus (23)  
comprising angle reproducing means for reproducing the angle between ASIS and  
20 HJC.